Supreme Court, U. S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1976

No. 76-1457

THE LUNDY PACKING COMPANY, *Petitioner,*

v.

NATIONAL LABOR RELATIONS BOARD, *Respondent.*

Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Fourth Circuit

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REPLY BRIEF

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PRESS OF BYRON S. ADAMS PRINTING, INC., WASHINGTON, D. C.

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REPLY BRIEF

I. JURISDICTION

Pursuant to Rule 24(4) of the Supreme Court Rules, Petitioner files this Brief in Reply to Respondents' Brief in Opposition to Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit. U.S. Sup. Ct. Rule 24(4), 28 U.S.C.

II. STATEMENT OF THE CASE

Petitioner contends that both the National Labor Relations Board and the Union have misrepresented

Petitioner's arguments in their Briefs in Opposition to Petitioner's Petition for Certiorari. Therefore, Petioner reiterates its contention that:

(1) The Administrative Law Judge, the National Labor Relations Board and the Court of Appeals for the Fourth Circuit applied an incorrect standard in deciding that the July 8 strike was caused by Petitioner's unfair labor practices. It is clear upon the record that the motivating force which was the admitted primary and substantial cause of the strike was the lawful discharge of employee Ules Jackson (Pet. 2).

(2) The standard that the Petitioner must "demonstrate that the strike would have occurred . . . irrespective of its unfair labor practices (A. 63)" is incorrect and was improperly applied to Petitioner in the instant case (Pet. 11).

(3) The Administrative Law Judge, the Board and the Court of Appeals for the Fourth Circuit should have found that the strike was not an unfair labor practice strike because any unfair labor practices Petitioner is found to have committed were neither the principal nor the motivating cause of the strike (Pet. 11).

(4) There is a substantial conflict among the Circuits as to the definition of what constitutes an unfair labor practice strike and this conflict can only be properly resolved by this Court (Pet. 6-11).

CONCLUSION

For the reasons stated, the Petition for Certiorari should be granted. Dated this 7th day of July, 1977.

Respectfully submitted,

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